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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,621	02/21/2001	Hikaru Kouta	Q63282	4578
7590	03/23/2005			
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC 2100 PENNSYLVANIA AVENUE, N.W. WASHINGTON, DC 20037-3213			EXAMINER KAO, CHIH CHENG G	
			ART UNIT 2882	PAPER NUMBER

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/788,621

Applicant(s)

KOUTA ET AL.

Examiner

Chih-Cheng Glen Kao

Art Unit

2882

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-8,10 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-8,10 and 13-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 2, 6, 7, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. (Optics Letters) in view of Bilodeau et al. (US Patent 5495548).

2. With regards to claim 1, Kondo et al. discloses a method of modifying a refractive index or a waveguide having a core doped with GeO_2 and clad section (Fig. 1) including condensing rays having a pulse width not more than 30 pico-seconds (Page 646, col. 2, line 4) using an objective lens (Fig. 1, lens next to "20X") to at least one of the core and clad section (Page 646, col. 2, lines 1-5 and Fig. 1), wherein the rays are irradiated, while scanned along the core at least one at a time, to the core section to modify the refractive index (Fig. 1, "XYZ-stage"), and wherein the rays are irradiated for heating as well as modifying the refractive index, thereby making thermal treatment unnecessary (Page 648, col. 1, lines 3-25).

However, Kondo et al. does not disclose saturating the change of the refractive index.

Bilodeau et al. teaches saturating the change of the refractive index (Fig. 2).

It would have been obvious, to one having ordinary skill in the art at the time the invention was made, to have the method of Kondo et al. with saturating the change of refractive

index of Bilodeau et al., since one would be motivated to saturate the change in refractive index to create a sharper grating than one that was changed only a fraction of that amount (Fig. 2) as implied from Bilodeau et al.

3. With regards to claim 2, Kondo et al. further discloses laser rays having photon energy lower than half of the band-gap energy of a material of the clad section (Page 646, col. 1, last paragraph, “clad glasses were Ge-doped and pure-silica glass”, and col. 2, lines 1-5, “800 nm”).

4. With regards to claim 6, Kondo et al. further discloses a core section of a three dimensional-structure (Fig. 1) and rays irradiated to the bottom part of the core to modify the refractive index without changing the top part of the core (Fig. 1 flipped on its side).

5. With regards to claim 7, Kondo et al. further discloses the refractive index elevated by increasing a density of the irradiated part (Page 648, col. 1, lines 10-14).

6. With regards to claim 10, Kondo et al. in view of Bilodeau et al. suggests a method as recited above.

However, Kondo et al. does not specifically disclose rays having a power density for saturating the change of the refractive index of the core section.

Bilodeau et al. teaches and would necessarily have rays having a power density for saturating the change of the refractive index of the core section (Fig. 2, and col. 2, lines 45-55).

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It would have been obvious, to one having ordinary skill in the art at the time the invention was made, to have the method of Kondo et al. in view of Bilodeau et al. with the power density for saturating, since one would be motivated to have the necessary energy needed to reach a particular refractive index as implied from Bilodeau et al. (Fig. 2, and col. 2, lines 45-55).

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. in view of Bilodeau et al. as applied to claim 1 above, and further in view of Kircher (US Patent 4537469).

Kondo et al. in view of Bilodeau et al. suggests a method as recited above.

However, Kondo et al. does not disclose the refractive index reduced by decreasing a density.

Kircher teaches the refractive index reduced by decreasing a density (col. 3, lines 30-40).

It would have been obvious, to one having ordinary skill in the art at the time the invention was made, to have the suggested method of Kondo et al. in view of Bilodeau et al. with reducing refractive index by decreasing a density of Kircher, since one would be motivated to do this for better light transmission in an optical fiber as implied from Kircher (col. 3, lines 30-40).

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. in view of Bilodeau et al. as applied to claim 1 above, and further in view of Kershaw (US Patent 6154591).

Kondo et al. in view of Bilodeau et al. suggests a method as recited above.

However, Kondo et al. does not disclose the shape of the core changed to have a taper.

Kershaw teaches the shape of the core changed to have a taper (col. 2, lines 57-63).

It would have been obvious, to one having ordinary skill in the art at the time the invention was made, to have the suggested method of Kondo et al. in view of Bilodeau et al. with a tapered core of Kershaw, since one would be motivated to do this to reduce cavity losses as implied from Kershaw (col. 2, lines 57-63).

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. in view of Bilodeau et al. as applied to claim 1 above, and further in view of Koops et al. (US Patent 5982962).

Kondo et al. in view of Bilodeau et al. suggests a method as recited above.

However, Kondo et al. does not disclose a grating for diffracting rays in the core to any direction.

Koops et al. teaches a grating for diffracting rays in the core to any direction (Fig. 10).

It would have been obvious, to one having ordinary skill in the art at the time the invention was made, to have the suggested method of Kondo et al. in view of Bilodeau et al. with the diffraction grating of Koops et al., since one would be motivated to use it for better coupling light between one fiber and a plurality of fibers as implied from Koops et al. (col. 1, lines 25-30).

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. in view of Bilodeau et al. as applied to claim 1 above, and further in view of Starodubov (US Patent 5881188).

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Kondo et al. in view of Bilodeau et al. suggests a method as recited above.

However, Kondo et al. does not disclose a planar waveguide.

Starodubov teaches a planar waveguide (col. 3, lines 53-54).

It would have been obvious, to one having ordinary skill in the art at the time the invention was made, to have the suggested method of Kondo et al. in view of Bilodeau et al. with the planar waveguide of Starodubov, since planar waveguides and optical fibers are considered art-recognized equivalents known in the art. It would have been within ordinary skill in the art to substitute one for the other as shown by Starodubov (col. 3, lines 53-54). One would be motivated to incorporate a planar waveguide to put them within integrated circuits or on top of surfaces so the waveguide does not roll around like a fiber.

11. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. in view of Bilodeau et al. as applied to claim 1 above, and further in view of Modavis et al. (US Patent 5647040).

Kondo et al. in view of Bilodeau et al. suggests a method as recited above.

However, Kondo et al. does not disclose a coupler subjected to refractive index modification.

Modavis et al. teaches a coupler subjected to refractive index modification (Abstract).

It would have been obvious, to one having ordinary skill in the art at the time the invention was made, to have the suggested method of Kondo et al. in view of Bilodeau et al. with a coupler for refractive index modification of Modavis et al, since one would be motivated to

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change the refractive index of a coupler for better tuning the coupler to a selected coupling frequency (Abstract) as shown by Modavis et al.

12. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. in view of Bilodeau et al. as applied to claim 1 above, and further in view of Albrecht et al. (WO 99/52003).

Kondo et al. in view of Bilodeau et al. suggests a method as recited above.

However, Kondo et al. does not disclose an array grating for WDM telecommunications binding the divided rays and modifying the refractive index such that a ray having a specified wavelength is coupled to the waveguide.

Albrecht et al. teaches an array grating for WDM telecommunications binding the divided rays (Fig. 1, #101, 102, and 103) and modifying the refractive index such that a ray having a specified wavelength is coupled to the waveguide (Fig. 1, #3).

It would have been obvious, to one having ordinary skill in the art at the time the invention was made, to have the suggested method of Kondo et al. in view of Bilodeau et al. with the array grating and modification of the refractive index of Albrecht et al. with, since one would be motivated to use these for better demultiplexing signals (Fig. 1, input and output of #42) as shown by Albrecht et al.

See US Patent 6591034 for a translation of WO 99/52003.

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13. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. in view of Bilodeau et al. as applied to claim 1 above, and further in view of Komatsu (US Patent 6192170).

Kondo et al. in view of Bilodeau et al. suggests a method as recited above.

However, Kondo et al. does not disclose a fiber grating for diffracting a ray with a specified wavelength and the refractive index modified by the specified wavelength.

Komatsu teaches a fiber grating for diffracting a ray with a specified wavelength (Fig. 2, #4) and the refractive index modified by the specified wavelength (col. 3, lines 1-9).

It would have been obvious, to one having ordinary skill in the art at the time the invention was made, to have the suggested method of Kondo et al. in view of Bilodeau et al. with a grating modification of Komatsu, since one would be motivated to incorporate this for better maximizing the optical power at a desired wavelength (col. 3, lines 5-9) as shown by Komatsu.

Response to Arguments

14. Applicant's arguments filed 3/8/05 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the

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applicant's disclosure, such a reconstruction is proper. In this case, the motivation or knowledge does not include knowledge gleaned only from the applicant's disclosure. As noted above, it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to have the method of Kondo et al. with saturating the change of refractive index of Bilodeau et al., since one would be motivated to saturate the change in refractive index to create a sharper grating than one that was changed only a fraction of that amount (Fig. 2) as implied from Bilodeau et al. Also note that it would have only involved routine skill in the art for one to choose a point in time, such as the point in time at saturation, to stop changing the refractive index.

Furthermore, as noted in the previous Office Action, although Bilodeau et al. shows an embodiment of using a flame to saturate the change, Bilodeau et al. also shows that any other source of heat can be used, such as a laser or electric arc (col. 2, lines 51-53). These heating sources are considered art-recognized equivalents, and one of ordinary skill in the art would have found it obvious to substitute one for another to reach the saturation point. Thus, reaching the saturation point with a laser instead of a flame would have been an obvious modification, which one would be motivated to make as noted above. Such a modification is not to such a degree that Bilodeau et al. would discredit Kondo et al. Therefore, Applicant's arguments are not persuasive, and the claims remain rejected.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

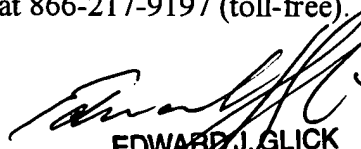
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Cheng Glen Kao whose telephone number is (571) 272-2492. The examiner can normally be reached on M - F (9 am to 5 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Glick can be reached on (571) 272-2490. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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